

IN THE UNITED STATES DISTRICT COURT United States Courts  
Southern District of Texas  
FILED  
FOR THE SOUTHERN DISTRICT OF TEXAS OCT 31 2007  
HOUSTON Division Michael N. Milby, Clerk

PETITION FOR A WRIT OF HABEAS CORPUS BY A  
PERSON IN STATE CUSTODY

JERRY HARTFIELD  
PETITIONER  
(Full name of Petitioner)

TDCJ-CID MICHAEL UNIT  
CURRENT PLACE OF CONFINEMENT

VS.

353178  
PRISONER ID NUMBER

NATHANIEL QUARTERMAN, DIRECTOR  
RESPONDENT  
(Name of TDCJ Director, Warden, Jailor, or  
authorized person having custody of petitioner)

**H-07-3676**  
CASE NUMBER  
(Supplied by the Clerk of the District Court)

INSTRUCTIONS - READ CAREFULLY

1. The petition must be legibly handwritten or typewritten, and signed by the petitioner, under penalty of perjury. Any false statement of an important fact may lead to prosecution for perjury. Answer all questions in the proper space on the form.
2. Additional pages are not allowed except in answer to questions 11 and 20. Do not cite legal authorities. Any additional arguments or facts you want to present must be in a separate memorandum.
3. When the Clerk of Court receives the \$5.00 filing fee, the Clerk will file your petition if it is in proper order.
4. If you do not have the necessary filing fee, you may ask permission to proceed *in forma pauperis*. To proceed *in forma pauperis*, (1) you must sign the declaration provided with this petition to show that you cannot prepay the fees and costs, and (2) if you are confined in TDCJ-ID, you must send in a certified *In Forma Pauperis* Data Sheet from the institution in which you are confined. If you are in an institution other than TDCJ-ID, you must send in a certificate completed by an authorized officer at your institution certifying the amount of money you have on deposit at that institution. If you have access or have had access to enough funds to pay the filing fee, then you must pay the filing fee.

5. Only judgments entered by one court may be challenged in a single petition. If you want to challenge judgments entered by different courts, either in the same state or in different states, you must file separate petitions as to each court.
6. Include all your grounds for relief and all the facts that support each ground for relief in this petition.
7. When you have finished filling out the petition, mail the original and two copies to the Clerk of the United States District Court for the federal district within which the State court was held which convicted and sentenced you, or to the federal district in which you are in custody. A "VENUE LIST," which lists U.S. District Courts in Texas, their divisions, and the addresses for the clerk's office for each division, is posted in your unit law library. You may use this list to decide where to mail your petition.
8. Petitions that do not meet these instructions may be returned to you.

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### **PETITION**

#### **What are you challenging?** (Check only one)

- ☒ A judgment of conviction or sentence, (Answer Questions 1-4, 5-12 & 20-23)  
probation or deferred-adjudication probation
- ☐ A parole revocation proceeding. (Answer Questions 1-4, 13-14, & 20-23)
- ☐ A disciplinary proceeding. (Answer Questions 1-4, 15-19 & 20-23)

#### **All petitioners must answer questions 1-4:**

1. Name and location of the court (district and county) which entered the conviction and sentence that you are presently serving or that is under attack:  
130th District Court of Wharton County Texas
2. Date of judgment of conviction: June 30, 1977
3. Length of sentence: Death
4. Nature of offense and docket number (if known): Capital Murder #7794

#### **Judgment of Conviction or Sentence, Probation or Deferred-Adjudication Probation:**

5. What was your plea? (Check one)  
☒ Not Guilty      ☐ Guilty      ☐ Nolo contendere
6. Kind of trial: (Check one)      ☒ Jury      ☐ Judge Only

7. Did you testify at the trial? ☐ Yes ☒ No
8. Did you appeal the judgment of conviction? ☒ Yes ☐ No
9. If you did appeal, in what appellate court did you file your direct appeal?

Court of Criminal Appeals Cause Number (if known) 59,343

What was the result of your direct appeal (affirmed, modified or reversed): judgment reversed  
and remanded for retrial

What was the date of that decision? March 4, 1983

If you filed a petition for discretionary review after the decision of the court of appeals, answer the following:

Result: \_\_\_\_\_

Date of result: \_\_\_\_\_ Cause Number (if known): \_\_\_\_\_

If you filed a petition for *writ of certiorari* with the United States Supreme Court, answer the following:

Result: \_\_\_\_\_

Date of result: \_\_\_\_\_

10. Other than a direct appeal, have you filed any petitions, applications or motions from this judgment in any court, state or federal? This includes any state application for writ of habeas corpus that you may have filed.

☒ Yes ☐ No

11. If your answer to 10 is "Yes," give the following information:

Name of court: 130th District Court of Wharton County Texas

Nature of proceeding: Petition for Writ of Habeas Corpus (11.07 Tex.R.Crim.Pro

Cause number (if known): 7794-B, WR-66,609-03

Date (month, day and year) you filed the petition, application or motion as shown by a file-stamped date from the particular court.

April 11, 2007

Grounds raised: Denial to be returned to County for new trial

Date of final decision: May 30, 2007

Name of court that issued the final decision: Court of Criminal Appeals

As to any second petition, application or motion, give the same information:

Name of court: Supreme Court of Texas

Nature of proceeding: Petition for Writ of Mandamus

Date (month, day and year) you filed the petition, application or motion as shown by a file-stamped date from the particular court.  
July 19, 2007

Grounds raised: asked court to order Court of Criminal Appeals to  
abide by its mandate issued March 4, 1983

Date of final decision: October 12, 2007

Name of court that issued the final decision: Supreme Court of Texas

*If you have filed more than two petitions, applications, or motions, please attach an additional sheet of paper and give the same information about each petition, application, or motion.*

12. Do you have any future sentence to serve after you finish serving the sentence you are attacking in this petition?

☐ Yes ☒ No

(a) If your answer is "yes," give the name and location of the court that imposed the sentence to be served in the future:

\_\_\_\_\_  
\_\_\_\_\_

(b) Give the date and length of the sentence to be served in the future: \_\_\_\_\_

\_\_\_\_\_

(c) Have you filed, or do you intend to file, any petition attacking the judgment for the sentence you must serve in the future?

☐ Yes ☐ No

**Parole Revocation:**

13. Date and location of your parole revocation: \_\_\_\_\_
14. Have you filed any petitions, applications, or motions in any state or federal court challenging your parole revocation?
- ☐ Yes ☐ No

If your answer is "yes," complete Question 11 above regarding your parole revocation.

**Disciplinary Proceedings:**

15. For your original conviction, was there a finding that you used or exhibited a deadly weapon? ☐ Yes ☐ No
16. Are you eligible for mandatory supervised release? ☐ Yes ☐ No
17. Name and location of prison or TDCJ Unit that found you guilty of the disciplinary violation:

\_\_\_\_\_

Disciplinary case number: \_\_\_\_\_

18. Date you were found guilty of the disciplinary violation: \_\_\_\_\_
- Did you lose previously earned good-time credits? ☐ Yes ☐ No

Identify all punishment imposed, including the length of any punishment if applicable, any changes in custody status, and the number of earned good-time credits lost: \_\_\_\_\_

19. Did you appeal the finding of guilty through the prison or TDCJ grievance procedure?
- ☐ Yes ☐ No

If your answer to Question 19 is "yes," answer the following:

Step 1 Result: \_\_\_\_\_

\_\_\_\_\_

Date of Result: \_\_\_\_\_

Step 2 Result: \_\_\_\_\_

\_\_\_\_\_

Date of Result: \_\_\_\_\_

**All applicants must answer the remaining questions:**

20. State clearly every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting them.

**CAUTION:**

Exhaustion of State Remedies: You must ordinarily present your arguments to the highest state court as to each ground before you can proceed in federal court.

Subsequent Petitions: If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

Following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement is a separate ground for possible relief. You may raise any grounds, even if not listed below, if you have exhausted your state court remedies. However, you should raise in this petition all available grounds (relating to this conviction) on which you base your belief that you are being held unlawfully.

**DO NOT JUST CHECK ONE OR MORE OF THE LISTED GROUNDS.** Instead, you must also STATE the SUPPORTING FACTS for ANY ground you rely upon as the basis for your petition.

- (a) Conviction obtained by a plea of guilty which was unlawfully induced, or not made voluntarily, or made without an understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by the use of a coerced confession.
- (c) Conviction obtained by the use of evidence gained from an unconstitutional search and seizure.
- (d) Conviction obtained by the use of evidence obtained from an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the prosecution's failure to tell the defendant about evidence favorable to the defendant.
- (g) Conviction obtained by the action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (h) Conviction obtained by a violation of the protection against double jeopardy.
- (i) Denial of effective assistance of counsel.
- (j) Denial of the right to appeal.
- (k) Violation of my right to due process in a disciplinary action taken by prison officials.

A. **GROUND ONE:** I WAS GRANTED A NEW TRIAL 24 YEARS AGO AND HAVE NEVER  
BEEN RETURNED TO THE TRIAL COURT THEREBY DENYING ME DUE PROCESS OF LAW

**Supporting FACTS (tell your story briefly without citing cases or law):**

On March 4, 1983 in No.59,343, Trial Court No.7794, the Court of  
Criminal Appeals for Texas, by the Honorable Judge John F. Onion,  
reversed the judgment in this matter and remanded it back to the trial  
court for retrial. (see MANDATE in EXHIBIT A) The mandate was received  
and filed by Roland J. Carlson, Clerk for the Wharton County District  
Court on March 9, 1983. Since that date, petitioner has never been re-  
turned to Wharton County for any further proceedings as mandated by  
the Court of Criminal Appeals. SEE MANDATE ON NEXT PAGE

B. **GROUND TWO:** I AM BEING DETAINED BY AN ILLEGAL SENTENCE

**Supporting FACTS (tell your story briefly without citing cases or law):**

On March 15, 1983 the Governor of Texas issued a proclomation  
commuting the sentence of death to life imprisonment, but the Governor  
was without jurisdiction to do so because my conviction had already  
been reversed and the proclomation had no precedence. (see EXHIBIT B)  
The life sentence can not supersede the reversal of the judgment.

C. **GROUND THREE:** \_\_\_\_\_

**Supporting FACTS (tell your story briefly without citing cases or law):**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TRIAL COURT NO. 7794

# THE STATE OF TEXAS

To the 130TH. JUDICIAL DISTRICT COURT OF WHARTON County, Greeting:

Before our Court of Criminal Appeals, on the 1st. day of March  
A. D. 19 83 the cause upon Appeal to revise or reverse your judgment  
between

JERRY HARTFIELD

Appellant,

No. 59,343

vs.

THE STATE OF TEXAS, Appellee,

was determined; and therein our said Court of Criminal Appeals made its  
order in these words:

"This cause came on to be heard on the Transcript of the record of the  
Court below, and the same being inspected, because it is the opinion of  
this Court that there was error in the judgment, it is ordered, adjudged and  
decreed by the Court that the judgment be reversed and the cause re-  
manded for further proceedings in accordance with the opinion of this

Court, and that this decision be certified below for observance."  
The Motion for Leave to File State's Second Motion for Rehearing Denied.

WHEREFORE, we command you to observe the order of our said Court  
of Criminal Appeals, in this behalf and in all things to have it duly recog-  
nized, obeyed and executed.

WITNESS, the HON. JOHN F. ONION, JR., Presiding Judge  
of our said Court of Criminal Appeals, with the seal thereof  
annexed, at City of Austin, Texas, this 4th. day of

March

A. D. 19 83

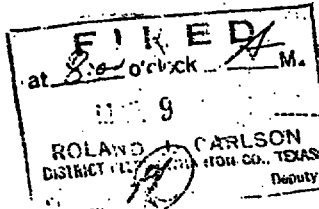


EXHIBIT - 1

THOMAS LOWE

Clerk.

*Belva Myler*

Deputy Clerk. 48

4-2-247-248



## PROCLAMATION

BY THE

Governor of the State of Texas

Is

PROC NO. 83-04805

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, JERRY HARTFIELD, EXECUTION NO. 571, was convicted of the Crime of Murder, a Capital Felony, Cause No. 7794, on June 30, 1977 in the 23rd Judicial District Court of Wharton County, Texas and punishment was set as Death, and

WHEREAS, the District Judge of the 130th Judicial District Court, Wharton County, Texas, the District Attorney of the 23rd Judicial District Court, Wharton County, Texas, and the Sheriff of Matagorda County, Texas have recommended commutation from Death to Life Imprisonment in the Texas Department of Corrections, and

WHEREAS, the Board of Pardons and Paroles of Texas subsequently recommended the Commutation of Sentence from Death to Life Imprisonment in the Texas Department of Corrections.

NOW, THEREFORE, I, MARK WHITE, Governor of the State of Texas, by virtue of authority vested in me under the Constitution and laws of this State, and acting upon and because of the recommendation of the Board of Pardons and Paroles dated March 14, 1983, do hereby grant unto the said JERRY HARTFIELD

THE COMMUTATION OF SENTENCE FROM DEATH TO LIFE IMPRISONMENT IN THE TEXAS DEPARTMENT OF CORRECTIONS.

and I hereby direct that a copy of this proclamation be filed in the office of the Secretary of State.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially caused the Seal of State to be pressed hereon at Austin, this 15th Day of March A. D. 1983.

*Mark White*

GOVERNOR OF TEXAS

BY THE GOVERNOR:

*Aslund Faintes*  
SECRETARY OF STATE

EXHIBIT - B

D. **GROUND FOUR:** \_\_\_\_\_

Supporting FACTS (tell your story briefly without citing cases or law):

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21. Have you previously filed a federal habeas petition attacking the same conviction, parole revocation, or disciplinary proceeding that you are attacking in this petition?

☐ Yes ☒ No

If your answer is "yes," give the date on which each petition was filed, the federal court in which it was filed, and whether the petition was (a) dismissed without prejudice or (b) denied.

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22. Are any of the grounds listed in paragraph 20 above presented for the first time in this petition?

☐ Yes ☒ No

If your answer is "yes," state briefly what grounds are presented for the first time and give your reasons for not presenting them to any other court, either state or federal.

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23. Do you have any habeas corpus proceedings or appeals now pending in any court, either state or federal, relating to the judgment or proceeding under attack?

☐ Yes ☒ No

If "yes," identify each type of proceeding that is pending (i.e., direct appeal, art. 11.07 application, or federal habeas petition), the court in which each proceeding is pending, and the date each proceeding was filed.

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Wherefore, petitioner prays that the Court grant him the relief to which he may be entitled.

\_\_\_\_\_  
Signature of Attorney (if any)

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I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on 10/22/07 (month, date, year).

Executed on 10/22/07 (date).

Jerry Hartfield  
Signature of Petitioner (required)

Petitioner's current address: Michael Unit, Box 4500, Tennessee Colony, Tx. 75886

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Michael N. Milby, Clerk  
United States District Court  
Southern District of Texas  
P.O. Box#61010  
Houston,Tx.77002

United States Court October 22, 2007  
Southern District of Texas  
FILED

OCT 31 2007

Michael N. Milby, Clerk

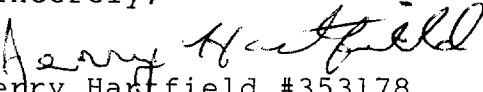
Dear Clerk,

**H-07-3676**

Enclosed is an original and two copies of a Petition For Writ Of Habeas Corpus filed by a state prisoner. Also enclosed is a Petition For Writ of Mandamus with two copies also, As required an Application To Proceed In Forma Pauperis along with an Inmate Trust fund printout is enclosed.

Please present these to the Court and advise me accordingly afterwards.

Sincerely,

  
Jerry Hartfield #353178  
Michael Unit-Box#4500  
Tennessee Colony,Tx.75886

JERRY  
MICHAEL  
TENN  
2007

KAS P&DC  
751  
2007

Jerry Hartfield #3531478  
Michael Unit-Box#4500  
Tennessee Colony, Tx. 75806

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON, TX

29 OCT 2007 PM

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON, TX

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON, TX

Michael Milby, Clerk  
United States District Court  
Southern District of Texas  
P.O. Box#61010  
Houston, Tx. 77002

SCREENED BY  
U.S. MARSHALS

United States District Court  
Southern District of Texas  
FILED

OCT 31 2007

Michael N. Milby, Clerk